

(56)

T H E I R
Present Majesties
GOVERNMENT

Proved to be

Thoroughly Settled,

AND

That we may Submit to it, without
Asserting the

Principles of Mr. Hobbs.

Shewing also,

That Allegiance was not Due to the
Usurpers after the late Civil War.

Occasion'd by some Late Pamphlets against the
Reverend Dr. Sherlock.

L O N D O N, Printed for Robert Clavel, at the Peacock
in St. Pauls-Church-Yard, 1691.



T H E I R
Present Majesties
 G O V E R N M E N T

Proved to be
 Thoroughly Settled, &c.

HAVING lately perus'd several Pamphlets, which the Authors stile, *Remarks on Dr. Sherlock's New Book about the Case of Allegiance due to Sovereign Powers*, I find they pretend to Charge him with *Hobbism*: I presume, it may not be thought useleſs to give the True State of the Caſe, and thence to prove the Lawfulneſs of our Submiſſion to Their PRESENT MAJESTIES; and that without approaching or Bordering upon the Opinion of Mr. *Hobbs*, who I ſtill think is much in the wrong, as I ſhall ſhew by and by: And this I ſhall the rather do, becauſe it may help to remove the Prejudices of our Brethren, who have not yet own'd the Government, being ſcandaliz'd, that we ſeem to favour his Principles.

Having wip'd off this Stain, I ſhall briefly ſhew, That thoſe Principles, by which I am govern'd, are not dangerous to the Thrones of Princes: This I undertake to

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prove,

prove, Because, any Principle that shakes the Throne, would be a Stumbling-Block to all Loyal Men, and at least prejudice them against such Arguments as may be urg'd to prove our Submission Lawful: And it seems the more necessary to give this Argument its full Weight, because the Learned Dr. *Sherlock* has but touch'd upon that Point, and only ballances this Danger on the Princes side, with the Doctrine of *Non-Resistance* on our Part; and indeed, it shews an excellent Providence, That God has so settled the Governments of the World, as to establish an irresistible Power in each Government, to preserve the Peace of it, and yet lays a most considerable Restraint upon such Governours, by putting it into the Power of their oppress'd Subjects, to be idle Spectators of their Danger in the day of Tryal, and to transfer their Allegiance as soon as any prosperous Conquerour can get into their Thrones.

But I think we have something more to offer on this Subject, *viz.* That our Principles are not prejudicial to Princes, or dangerous to their Crowns; or at least, according to these Principles, all good Princes (as for such as are Arbitrary and Tyrannical, they must shift for themselves) may have great Hopes of Recovering their Dominions, if by the Misfortune of War, or any other Accident, they be driven from their Thrones; which seems not to be enough provided for, by the *Hypothesis* that our Learned Author has given us: For if as soon as any Usurper has got quiet Possession of the Throne, Submission be then peremptorily and absolutely requir'd, as a Duty incumbent on all the Members of that Government, then the Case of a good and a bad Prince, when they are once dispossessed, seem to be equally desperate, *viz.* Neither of them can with any Moral Assurance, promise themselves any Assistance at home, from such as were their Subjects: Whereas, I am concern'd to see

Princes,

Princes, so unlike in themselves, to be set on the same foot in their Quarrels; and I am in pain, to say something, which may support the Hopes of injur'd Innocence; I presume I shall do it: If I fail in the Attempt, I hope the Reader will impute it to an honest Zeal, to protect Vertue and Innocence, that has blinded my Eyes.

And in prosecution of this design, I shall prove, That there was no Obligation to submit to the Usurpers after the late Civil War, and that though we should suppose them in the quiet Possession of the Government; I hope that I shall be able to make all this appear Reasonable, without denying the Doctrine taught in Bishop *Overal's* Convocation-Book; it may look somewhat like a Contradiction, but I must desire my Readers Patience until I can come at it.

To contract this Discourse, as much as I can, I shall make this one Supposition, That Princes, who originally have no Right to their Thrones, when their Government is thoroughly settl'd, are invested with God's Authority, and must be obey'd by all the Members of that Government, in as full a Manner, as any other, the most Legal and Rightful Princes can challenge: This Principle is plainly taught in Bishop *Overal's* Convocation-Book, and I think fully clear'd by the Learned Doctor *Sherlock*; and he is so able to maintain what he has advanc'd, that it would be great presumption in me, to endeavour to set it in a better Light.

Taking it then for granted, That all such Princes are to be reverenc'd and obey'd by their Subjects; our Enquiry is, When a Government may be said to be Thoroughly Settled?

This to me seems a very Knotty Question, and will require some thoughts to Resolve it; and I know not how to do it, but by looking back to the Original of all Sovereign Power, where we have been much in the dark; some saying,

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ing, Lo it is here, and, Lo it is there; some one thing and some another; one raising all Sovereignty from the natural Paternal Authority, another founding it in Conquest, a third in Election; others again pretending, that the several Sovereignties of the World have had several Originals: But for my part, with submission to better Judgments, I shall assert, that all Sovereignty is founded in submission; and this shall be the Thread to my following discourse, which if I can maintain, I doubt not but to prove all that I have promis'd on this Point: For if it appears, that no Man is a Subject but upon his own submission, and that Conquest without this can give no Man Authority to Govern, and Command me as his subject; then it plainly follows, that dominion is not founded in power; and that power, and a quiet possession, is no certain sign to us, that God has given the Sovereign Authority with it.

I Assert then, that all Civil Government, whether it be Elective, or Hereditary, Aristocracy, Democracy, or any other Form of Civil Government, it is all founded in submission; and I think there needs no other proof of this Doctrine, but to say, that a free man can never be made another's subject, but by his own consent, or submission, either in his own Person, or by his Representative: By the fortune of War, I may become another Mans Prisoner, but he must have my own consent to make me his subject; by the fortune of War, a Foreign Prince or a Rebellious Subject may get possession of our whole Kingdom, Usurp the Crown, and have the full and quiet Administration of the Government, and as it is usually done, Claim our Obedience as his Subjects: But in Truth, he has no true Title to it; indeed, if the War was just, all the whole property is his until we enter into Conditions; but the Obedience of Subjects is not due from us, until we have declar'd, and acknowledg'd him to be our Sovereign; and this I may call a Reciprocal Obligation, which either may refuse: Nor will

it argue much bounty in the Conqueror to return us our Liberty and Property, in lieu of our Obedience; because without Obliging our Consciences, he can hope to reap but little fruit from all his Conquests; he can never be secure in his Throne, nor settl'd in his Government, until he has some Tye upon our Consciences; as we are his prisoners, he may Torment and Punish us; but all this while he has no hold upon our Consciences, all things are Lawful against him as against a publick Enemy, and we are free to draw our Swords against him, as soon as we can escape out of his hands; so that on these Occasions, a Conqueror is forc't to stand Arm'd, or to bind our hands until he can bind our Consciences.

And this seems to be the key to understand those passages, quoted out of Bishop *Overal's* Convocation-book: The New Government is then thoroughly settl'd, when the new Prince has the full Administration of the Government, and is own'd as Sovereign by the Representatives of the people freely chosen; we must then submit not only for Wrath, but Conscience sake, because it is the Ordinance of God. Here therefore, I must presume to assert, that the right of Government is not deriv'd from God, without the consent or submission of the people; I do not say it is not deriv'd from God, but the consent of the people, together with the full Enjoyment of the Regal Power, is our Visible Evidence, that such a Prince has receiv'd his Authority from God; for till this be done, we cannot with any propriety of speech, say that the Government is settl'd, nor is it call'd the Ordinance of God until it be settl'd. I say, Submission only makes a Through Settlement, because, notwithstanding a quiet possession, it is probable whole multitudes may wait an opportunity to overturn it, unless the Nation has declar'd its willingness to Acquiesce by Representatives, who are the mouth of the people, and empower'd to speak their minds.

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I Would not have it thought, as if by this, I deny'd the Power of God, to set an Usurping Tyrant over us against our wills; for God can do it if he please, and make us the instruments of it; when he means thus to afflict any Nation, or People, he can so incline their hearts, as to make them receive him to be their King, who shall be their Scourge; Or the Usurping Tyrant having them in his Power, may make them willing to be his Subjects, on such Conditions as they can get: And thus God can set a bad King over us in some sense against our wills, and yet it is our own Act: For we owe him no Obedience, and are not Oblig'd to Reverence, and Obey him on the score of Conscience, until his Government be settl'd by our receiving him to be our Sovereign, either in our own Persons, or by our Representatives.

I presume it will be sufficient to clear this Point, if I first prove, That our Present Civil Governments could have no other Original; and further, shew in what sense the Men of succeeding Ages, and our present Times, are not said to be Subjects, without their own consent or submission.

For the Reasons already given, I do suppose all Civil Governments must have their Original, either from Submission, or from the Paternal Authority: Now none of our present Princes can Claim their right from Paternal Authority, because it cannot be thought that any Prince now living, should be able to make good his Claim, as the direct Heir from *Noah*; tho' they want no flatterers, yet none of them are so vain as to give out, that they are the Heirs of this great Family; so that I shall take it for granted, that all pretences to Sovereign Authority from Paternal Power, are absolutely out of doors: And at present I can foresee nothing Material, that may be objected against this Hypothesis, unless it be what our Learned Author seems to object, *viz.* That as natural Authority is the most sacred, so
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no Man had Authority to give it away ; that is, if I mistake not his meaning, a Father having Sovereign Authority over his Children, and Childrens Children, &c., may not Transfer this Authority to any other Person.

Now to clear this doubt, Perhaps it would be no difficult Task.

First, To shew the Necessity of Transferring this Authority as families multiplied; for every thing that is Absolutely necessary is Lawful, just as we say it was Lawful for *Cain* to Marry his own Sister.

Secondly, If it were Unlawful in the Original, a long Succession wipes off the Stain, as our Author plainly grants.

Thirdly, It being impossible to Govern the whole World by the care and inspection of one Man, and it being impossible to point out the direct Heir in each Country, and again impossible to settle the Limits of his Government : I Conclude it was Lawful for every Parent to Transfer, so much of his Authority to some Single Person, as was necessary to preserve Peace in the Neighbourhood, reserving still so much to themselves as might preserve a Filial Obedience; and this might be done, as we see it is at this day amongst us, tho' a stranger to their blood, were invested with a Sovereign Authority over them.

But Lastly, tho' no Authority, be so Sacred as what is Natural, yet I conclude it Lawful, not only on Necessary, but Prudential accounts to Transfer it: If any denies it is *gratis dictum*, when they publish their Reasons, it will be time enough to put in our Answer.

So that in short, I suppose it Lawful for any body of Free Men, to invest any one of themselves, or a stranger, with a Sovereign Authority over them: And that all our Present Governments did begin in this manner, is more than

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probable, because none of them could have such Authority by any other means; the pretences from Paternal Authority are out of doors, Conquest will lay no Obligation to Obedience on a Mans Conscience, and therefore nothing but Consent or Submission can do it.

It matters not whether this Submission was procur'd in gratitude for former Obligations, or by Flattery, or for fear of Rough Treatment; it may be sometimes a willing submission, and sometimes an Hard Choice, but ones own Submission only binds his Conscience; if he would brave his Adversary, and not yield to become his Subject, or Vassal, he would, as we say, be his own Man, as soon as he escap'd his Adversaries hands; whereas having once receiv'd him for his Sovereign, his Conscience is for ever bound; and if I may so say, he carries his Chains with him to the Remotest Corners of the World: All Nations as far as I know being agreed, that no Subject can shake off his Obedience at his pleasure; and agreeable to this Principle they all Act, on occasion, calling any of them home, and proceeding against such as refuse to Obey their Summons, which you must confess ought never to be done by a bare Conquerour; I mean, who is not yet own'd by the Estates: Or if such a Prince should pretend to Recall such as are Fled from his Usurped Government, tho' he has the Sword, and the whole Power in his hands, yet I suppose you will not say that such Refugies are oblig'd to return, and act the part of good subjects.

This therefore is a plain indication, that all our present Civil Governments were founded, and settl'd in the Consent, or Submission of our Ancestors; It remains now, to shew that their Posterity, and we of this Present Age, are not properly said to be subjects without our own submission: And it is Necessary to prove this, as well in Elective as Hereditary Governments; because the Government is not there Dissolv'd upon the Death of the Prince,
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nor would any Member of it be loose from his Obedience, though he should deny to Concur with them in the Election of a New King, and claim his Liberty at or before the Election.

I say then, as our Ancestors voluntarily submitted to be Subjects of this Hereditary Monarchy, so it is presum'd to be our own Choice, they were as properly our Representatives, as those that we now Chuse in our own persons, and our Consent is as well presum'd to the Enacting of their L A W S, as to those that are now made; and they transmitted no more Liberty to me, than they reserved to themselves: Nor is it any great Strain to presume our Consent in this Case; for, to give this Argument all the Force I can, I will suppose my self born in a very unhappy Government; but as a bad Government is better than none at all, so I should think it no foolish Choice, to Answer for my Off-spring, that they should be subject to the same Government, and might rationally suppose, that if they could now appear, they would ratify it in their own persons; because, all Civil Societies must soon be dissolv'd, if the Child be not born in the same Condition with his Parents; I mean, subject to the same Laws, and the same Government: Therefore, as my Ancestors did presume to Consent for me, that I should be subject to all the Laws which they Enacted, (for as yet I know no other Reason of my being subject to them); so amongst other things, they did Consent for me, that I should be subject to such a Government, to such and such a Prince: The Reason holds in both, by Vertue of their Act. I did as much Consent to be a Subject to the King of *England*, as I did Consent to any other Law which they Establish't: They thought it no Presumption to Consent for us, and we yet tread in their steps; for whatever Laws are now Enacted, will oblige our Posterity, as if it were their own Act; we

Represent those that are yet unborn, and Choose for them; and as you find by what has been said, may rationally presume to do so.

Obj. If it be Demanded, On what Account our Ancestors, Three or Four Hundred Tears ago, should Choose a King for us?

Ans. The Answer is very obvious, *viz.* They well understood the Conveniencies of Government, and therefore might well presume our Consent, to be Members of it, upon as good Terms as they could get; because, as I said before, a bad Government is better than none, since therefore they were to Choose for themselves, as well as their Posterity, and had an equal Interest in this great Affair, they might presume to Consent for us, seeing they consulted our Happiness and Security in the World; or if they acted foolishly and unfaithfully, yet since the thing must be done, or the World would become an *Acel-dama*, they might on good Grounds presume our Consent, and Choose for us, as we yet do for our Posterity in other Cases; or indeed in the same Case, whenever we transfer any part of our Liberty, by enlarging the Prerogative of the Crown. We may Act wisely or foolishly, as it happens, but we Act not for our selves alone, it affects our whole Posterity, whom we Represent, and who are supposed to Consent with us, for otherwise, I cannot see how it should oblige their Consciences.

Obj. But it may further be Objected against this Hypothesis, That the Major Vote cannot include my Consent, unless I please.

Ans. I grant it, if a New Government were now to be Erected, it could not; but where we could not Act in our own Persons, our Ancestors being our true Representatives, it was rational to presume on our Consent in what they did for us; and since we could not Choose for our selves, our Consent is most rationally presumed

sum'd to the Major Vote, as it is at this day, when any New Law is establish'd ; and since we cannot all act in our own persons, I suppose, every Wise Man would rather stand oblig'd by the Major Vote, than entrust his whole Property in the breast of those more peculiar Representatives, whom he elects himself, since it gives them so large a Power, and therefore is a Trust too great to be put into the hands of any one Man ; and on this Account our Ancestors might well presume to Consent for us, that in these Cases we should be oblig'd by the Major Vote.

Indeed, at first sight it may seem somewhat hard, that our Ancestors should not reserve a Liberty to every particular Man to Choose for himself. We are naturally very fond of this Liberty, but in the main, it cannot be done, because no considerable Body of Men can be thus govern'd ; and as it appears by the Event, they who have reserv'd most of this Liberty, have acted the most imprudently. Thus I suppose we are in some Measure sensible of the great Inconveniencies incident to an Elective Government in *Poland*, where, at their Dyets, nothing is Enacted by a Major Vote, but only by a general Consent ; the Wheel of Government moves so heavily, that that great People, who in their Persons are Valiant, in their Councils not inferiour to their Neighbours, and in their Numbers, as Considerable as any Nation in *Europe*, are become the Sport of Fortune, being miserably harras'd by every Puny Invader ; and for want of giving away a little more Liberty, many of them frequently lose it all ; Multitudes being daily carryed into a miserable Captivity by their Enemies, by reason of those Dilatory Proceedings : So that our Ancestors might well presume to Consent for us, in passing away this Liberty ; And indeed, with us there is such a true Temper observ'd, betwixt Liberty and Prerogative, that the whole Frame of our Laws, seem to be of our own inditing, being

being such as every Wise Man would Consent to, tho' we were to begin afresh. But this is more than needs be said; for if our Ancestors had Acted very Foolishly, and made our Condition much worse than it is, their Laws would have still Oblig'd us, they would have been lookt upon as our own Act, because they were our Representatives.

And now I hope it appears, I had some Reason to say, that no Man is a Subject without his own Consent, or Submission; but before I proceed to build upon this Principle, it may be necessary to remove the scruples of one sort of men (for they are no Arguments) against what is advanc'd.

Object. They may say, if Subjects give their Prince his Authority, they may take it away again, if they please.

Ans. But we say, they give Him not his Authority, tho' he has it not without their Consent, or Submission; they are only the Pipes, or the Channels, whereby God Almighty conveys his Authority to him: For as I said before, to shorten my discourse, I take it for granted, that all Government is the Ordinance of God, and therefore tho' the subjects may Elect the Person, it is God that gives Him his Authority. It is a Womans own Consent, that makes her Subject to the Law of her Husband; but yet Marriage being Gods Ordinance, as well as Government, when it is done she cannot Recall, or Re-assume her Liberty.

But only for Argument's sake, we will suppose all Authority deriv'd from the People; yet then I say, it cannot be recall'd, but by the Consent of all Parties concern'd. And tho' our Representatives, may presume the Consent of the People, yet the King having a Negative Voice, nothing of this Nature, according to our Constitution, can be done without him, whilst he is able and willing to protect

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test us: But if he abandons his People, and cannot, or will not come to protect us; and our Representatives, to prevent the utter ruin of the Common-wealth, do then agree, and declare the Sovereignty to be in the next Heir, that can protect us; and thus settle him in the full Administration of the Government, we must then submit, not upon Mr. *Hobbs* his base Principle, because dominion is founded in Power; but by Virtue of the Determination of our Representatives, which is lookt upon as the Act of the whole People, and includes the Consent of every Particular Person, which, as it appears by this discourse, is the only Visible means of conveying a Sovereign Authority to any Person. And if this quiet possession, together with the free Consent of our Representatives, will not be thought a Through Settlement, I can think of nothing that can strengthen it, unless it be the Resignation of the Late King, which I presume, ought never to be expected, and would as much be wanted, upon the most Evident Conquest, as it is in this Case here before us. And therefore, I hope I may Conclude, that our Government is now Thoroughly Settld, and that we who submit to it cannot be charg'd with *Hobbism*; since we do not say that any Prince, who has quiet possession of the Throne, can Claim our Obedience, but only such as are Confirm'd, and Settld in it by the Determination of our Representatives: This I think is a very Natural Explication of those Passages in Bishop *Overal's* Convocation-Book, which require our Obedience to a Government Thoroughly Settld; for that Government must needs be very Slippery and Tottering, which our Representatives, who are suppos'd to have the Hearts, and to be the Mouth of the People, will not Confirm.

And for as much as I was satisfied, that my own submission was both just and rational, without bordering upon Mr. *Hobbs* his base Principle, which I always detested:

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on this Occasion, I thought it Necessary to Recollect my thoughts on this subject, and commit them to writing, that I might the more closely examine, how well my Reasons Hung together. But I could not set them in a True Light, without spinning them out to this length, before I came to the matter in hand, which I chiefly design'd, *viz.* To shew what a Vast Difference there is betwixt Mr. *Hobbs*, his Opinion of Government, and our own.

His comes from the Father of Lyes; Ours I hope from the God of Truth; his is the dictate of self-interest, ours the Resolves of Reason and Conscience: He says all Sovereignty, or all dominion is Founded in Power, we say no such thing: The greatest Conqueror cannot Compel us to be his Subjects without our own submission; tho' he has Power over our Country, and our persons, yet he can lay no Obligation upon our Consciences to become his Subjects. This must be our own act, either in person, or by our Representatives: And if this Notion will bear the Light, there is no pretence to say as Mr. *Hobbs* does, that his having the Power of the Sword, makes us become his Subjects.

And as this *Hypothesis* does entirely Wipe off the Stain of *Hobbism*, so likewise is it a great support, or at least not dangerous to the Thrones of good Princes; for one would suspect that his thoughts were ill grounded, if they oblig'd him to maintain such Principles; and indeed, it is a Melancholy thing to think, that we should be oblig'd as good Subjects to pay Obedience to the first Conqueror, that shall get quiet possession of the Throne, as Mr. *Hobbs* has taught us.

But according to this *Hypothesis*, the Government of the New Prince is never Thoroughly Settld, until he has acquir'd the Consent of the People; there is no Obedience due to him, until they Confirm his Authority.

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And this I call a great Security to all good Princes; for supposing it necessary to have their Consent to Confirm a Government, that began perhaps in Usurpation, and settle it, I know nothing more, that a Good, but Dispossest'd Prince, can desire to maintain his Hopes of an happy Turn of Affairs, to Re-instate him in his Dominions: For Men may say what they will, and suggest, That every Body is ready to Adore the Rising Sun; and that the worst Title, provided it be prosperous, never wants hands to support and strengthen it; but for my part, I could never be Tempted, nor do I think we ever had reason to make such odious general Censures: And as I hope we now want not many honest Patriots, who would have supported the late King *James*, to the last drop of Blood, had his Government been so Legal, as to have merited such a Sacrifice; so even in this Age, to the Honour of our Holy Religion, we want not many Generous Instances of Mens Integrity to this rational Principle: For though *Cromwel* had as quiet Possession of the Three Kingdoms, as any Conqueror could hope for, though he had all our Persons naked and helpless, in his Power, and at one Time, no Armed Force against him, either at home or abroad; yet he could never compass the Consent of the People in a Free Convention or Parliament, as I shall shew you by and by.

This therefore may extremely exalt the hopes of all good dispossest'd Princes, who being just and innocent, may rationally expect, that the Free Representatives of the People, will not own the Usurped Power; and so long as this is not done, they may as rationally hope for Succour from their Subjects, on the first fair Occasion.

Obj. But some may say, How can this be? Is it probable that an Usurper, in the quiet Possession of the Throne,
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should not, though with some Difficulty, procure an Acknowledgment of his Authority from our Free Chosen Representatives.

Ans. I say it is probable, and this late Instance of a lasting Usurpation, where it could not be done, is a Convincing Proof, That it may be so again, if we should ever see the like unhappy Occasion.

I will grant that we live in a wicked Generation, and that the worst Tyrant will have many Followers, if it be but for Spoil and Plunder. He may be able to influence some by his Favours, others by his Threats; others again may go along with him out of pure Zeal, to reform such Grievances, as he shall please to Object against. But what is this towards influencing the Whole, or the Major part of the Nation? The Power of our Representatives is deriv'd from so many Persons, that the Usurpers Bounty can reach but few of them; his Menaces, when they are so general, lose much of their Force, and as soon as he pretends to the Sovereignty, many of his most Zealous Followers prove his worst Enemies: If he should pretend to Corrupt the Representatives themselves, it is too considerable a Body to be aw'd by Menaces, too numerous for his Favours, generally of too great Integrity to accept his Bribes, and of better Fortunes than to need them; so that on this Score, a Dispossest'd Good Prince might well promise himself an After-Game.

Obj. But again it may be Objected, That if it be not Lawful to pay Allegiance to those Usurpers, whose Authority is not Confirm'd by our Representatives, then our Condition at such Times, must needs be extreamly hazardous and desperate, being naked and destitute, and expos'd to the Fury of those, who have all the Power in their hands.

Ans. I cannot but say these are most unhappy Circumstances; but in a general Calamity, every good Man should be willing to bear his Share, and venture his Security,

curity, and even sacrifice his private Interest, to preserve the Ancient Government, and Royal Family.

Besides, in such Cases the Danger is not so great, as we generally presume it is: Indeed, it can hardly be thought, but the Usurpers will sacrifice some Worthy Patriots to their Ambition, as those did in the late Times; but when they find a good Title, cannot be attain'd without a Sea of Blood, and much present Danger to themselves, they generally sit down as contented as they can, only with a quiet Possession: And as for those Leading Men, whose Zeal may have exasperated the Usurpers Fury, they may live conceal'd, or generously follow their Unhappy Master into Exile, and there patiently wait the Happy Hour: Nor as the World goes with them, will they look upon this Honourable Banishment, as an hard Choice, since if it were just to submit to the Usurpers, they could not but expect to be look't upon with an evil Eye, and perhaps to be Crush'd at the first Opportunity.

And this, I hope, is sufficient to Convince any reasonable Man, That these Principles are not dangerous to the Thrones of Princes; for we do not Assert, with Mr. *Hobbs*, That as soon as any Prince or Rebel has got Possession of the Throne, we immediately thereby become his Subjects: Nay, though they should get, and keep quiet Possession of it, we yet say there is no Obedience due from us, until their Usurped Power be Settled, and Confirm'd by our Representatives, whom we stile the Fathers of our Country, who are the most knowing in these Affairs, and being at the Helm, can best judge, Whether things be come to that Extremity, or not: But, Morally speaking, this Recognition cannot be procur'd from them, but in the utmost Extremity; and in short, then only when they are entirely

in the Power of a Conquerour, and sufficiently weary of their Dispossest'd Prince, by reason of his Arbitrary and Illegal Proceedings.

Thus it literally happen'd after the late Civil War, for notwithstanding all the Endeavours that were us'd by the Usurpers, they could never procure an Acknowledgment of their Authority from our Free Chosen Representatives, as I shall now shew you by representing the true Matter of Fact, from Mr. *Whitlock's* Memoirs, who must be allow'd to speak as favourably to this Point, as the Case would bear.

And here, I suppose, it will not be necessary I should say any thing of that part of the Parliament, commonly called the *Rump*; they indeed usurp'd the Government, but there was not so much as the Face of a general Consent in the Nation. Much less need I mention those 120 Persons, whom *Oliver*, as General of the Army, call'd together; who at last devolv'd what Authority they had on him: It was never pretended they had any other Parliaments or Representative Body of the People to confirm their Power.

So that we are already come to *Cromwel's* Government, as Protector, in which alone, if any where this Settlement is to be found.

Now *Cromwel* had but Two Conventions or Parliaments, as he call'd them, both which we will consider as also what they did towards Settling his Authority by a Free Parliamentary Submission, which we here presume to be necessary to make a Through Settlement.

His first Parliament was Summon'd *June 9th. 1654* and there is very good Reason to suspect there could be no free Election, because there were such Restrictions and Limitations, which the Sheriff was to lay upon the

the People, e're they could be admitted to give their Votes.

Another Circumstance, which must necessarily prejudice the Freedom of this Parliament, was a strange Innovation made by the Protector, in admitting Thirty *Scotch*, and Thirty *Irish* Members into it: For, could we suppose all the *English* Members Freely Chosen, so great an Accession of Strangers must needs be a great Clog to the *English*. For if we may suppose these Sixty Strangers at the Protector's Devotion, they, with the Help of some Friends they were sure to find here, might probably do things in Favour of the Protector, against the Sense of the People of *England*, whose Opinions are best known by our own Members: And that these Sixty Strangers, were the Protector's Creatures, is no improbable Supposition; because, he would not otherwise have made this Innovation, or have fetch'd them so far for nothing. Besides, Five Sherifffdoms in *Scotland* return'd, that not one fit to be a Representative, was to be found within their Liberty; which shews, That the Protector, and his Statef-men, were very nice in their Choice.

I might also Object against this Parliament, (and let it be Observ'd, That the former, and this Objection, lyes also against his last Parliament) That it was not Free, because the Protector took upon him, to call only so many Persons as he pleas'd, augmenting the Number of Representatives in some places, and diminishing in others, according to his own Humour, without any Colour of Law; and having taken this Liberty, you may imagine he was careful to call most of the Representatives from those places, where he had most Creatures, as I might easily make it appear, if it were worth my Time.

But let us Consider what this Parliament did, when once they were come together.

After some few Preliminaries, we find them Enttring on the Grand Debate, Concerning the Articles of the Protector's instrument of Government, and that in such a manner as made him jealous of their proceedings; and then he thought it High time, to impose a Recognition upon them, which they were to Sign, before they were suffer'd to sit again in the House: This Recognition (which may be seen in the *Memoirs*) can in no sense be call'd a Publick Act, since it was not first Voted in the House: And Effectually, upon this, many of them left that pretended Parliament, and they who did Sign it, presently Voted, that it should not be Constru'd to Comprehend the whole instrument, Consisting of Forty-two Articles; which was, as much as to say, they reserv'd still to themselves a Power to Break with him, in Case they could not Agree afterwards upon the said Articles.

And if we still Trace on their Proceedings, we find them always very Busy in their Debates, about the Government, and never able to come to any Conclusion about it, (unless I think upon Two Articles in Forty-two) till the Protector, being jealous of them, in great Heat Dissolv'd them.

His second Parliament Met *September 17. 1656.* And it must be confess'd, that this Parliament, did as far as they were able, Confirm his Usurp'd Authority: But nothing is more Evident, than that, this was a packt Number of his own Creatures; and as the Business was then Manag'd, it is Ridiculous to think, they could speak the Peoples sense in this matter.

For they were not only Crampt, as the former Parliament had been; but as our Author observes, none of them were suffer'd to enter the House, without a Certificate, that

that they were approv'd by the Protectors Council : And when almost an Hundred of the Members, who were Secluded upon that Account, demanded Entrance, it was slavishly voted by the rest, that they should make their Application to the Council, for their Approbation : This produc'd a most Sharp Remonstrance, Sign'd with their own Hands, as may be seen at Large in the *Memoirs*, page 640 And if there were nothing more, this is enough to Void and Null all their Proceedings ; This is sufficient to shew, that this was possibly, the most packt Assembly, that ever pretended to the Name of a Parliament ; and that there is not the least Colour of Reason, to say, that what they did, could any ways be the Act of the People ; Tho' this was the best Title the Protector had to his Government, as he himself thought, not being Solemnly Inaugurated before this pretended Submission, of the People in Parliament, as he call'd it.

I Should now proceed to Consider the Case of *Richard*, but there need not many words to Blow off his Title ; since the only Parliament He Had, as its freedom was questionable on the former accounts, and because of the Exclusion of some Members, who it seems were unworthy, because they had been in Arms against the Rump Parliament ; so they never came to any Conclusion, about the Recognition of his Authority.

And after all, if those pretended Parliaments had own'd both *Oliver*, and his Son after Him, yet we could not call it the Consent of the Nation, because of the Violent Exclusion of the True House of Peers.

As for what follow'd, *Richard*, until the return of King *Charles*, every body knows it was perfect Anarchy, and confusion. It is certain however, there never was any Parliament to Confirm the Authorities then.

then in being : and since that is the only Legal way, to Testify the consent of a People, we may safely Conclude the Usurpation was never Settld.

I might proceed in this Argument, and at least make it probable, that if *Cromwells* Government had been Confirm'd, as far as the free Consent of our Representatives could have Settld it, yet it would not have been the duty of all Private Men, to own his Authority ; which, tho' it be not at all necessary to maintain my opinion, I shall by way of Digression insist a little upon. Now this may seem a contradiction to what I have already Asserted, or at least Inconsistent with the Doctrine Taught in Bishop *Overal's* Convocation-Book, but I presume it is neither ; and I only urge it, that the True State of the Controversy betwixt us, and some of our brethren, may the better be conceiv'd, who insinuate, as if it were one and the same thing to pay Obedience to the present Government, or to that of the late Protector, or any other in his Circumstances: What has been said already, does sufficiently shew the Vanity of these Men ; and therefore it must be observ'd, that if I fail in this attempt, it will not Prejudice those Principles I undertook to maintain ; therefore, what I say on this head, must stand or fall alone, and I only propose it to the Consideration of Wiser Men.

What I have to say, Runs upon this Supposition, that an Usurp't Authority is not to be Obey'd, nor judg'd to be the Ordinance of God, until it be Thoroughly Settld ?

It may be ask'd then, If there be quiet possession, and it be confirm'd by our Representatives, what distinction can excuse us from paying Obedience to such Powers ?

I Answer, our Representatives had no Authority to de-

destroy the Monarchy: And therefore if they had thus Transgressed the Limits of their Power, it would not have Oblig'd those whom they Represented.

If it be Urg'd, that they have an Unlimited Power:

I Answer, it is True, but not unless, when they Act in their own Sphere, and in Conjunction with the King.

Obj. But it may further be Objected, that at this rate our Representatives could not Transfer our Allegiance to their Majesties, since they could not make any binding Act without a King.

Ans. I deny it. This they can do, as I shall shew you by and by; but it is an Exception from this Rule: They alone, can do no other Act, that can Oblige us: for instance, they cannot impose Taxes, or make Laws that shall Oblige us. In these, and in all other Cases, (except this instance now before us, of Confirming the Authority of a New King) it is our interest and security, that nothing should be Enacted, but by the Consent of the King, and our Representatives; and therefore, since we Commission them to Act only with the King, they can never Act without him.

Thus for instance, If a Conqueror has got the whole power into his hand, they may Transfer our Allegiance to him; Or if the Royal Family should be Extinct, they may proceed to a New Election. But if they pretend to Govern us themselves, without a King, this is more power, than we have given them; for we never Truſted the whole Legislative Authority in their hands; and I know not how they should come by it otherwise.

Obj. But some will say, in such a Case it is Devolv'd to them.

Ans. I deny it, they may have Power to dispose of
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the Crown as they please, but not to Assume the whole Sovereignty to themselves. By this means they will Lessen our Security ; for whereas now we are Oblig'd only by Laws made by the King, and our Representatives, we should then be Obliged by Laws, made only by themselves ; which I may say, is contrary to our Fundamental Law, *viz.* To be Govern'd by a King and our Representatives.

The Chain of my Discourse, hath led me into these untrodden paths, I will Disentangle my self, as soon as I can, but all this was necessary to prove the thing I am aiming at. But to proceed,

Obj. Against this it may be Objected, that if the ROYAL FAMILY were Extinct, the whole Power would be Lodg'd in the Hands of our Representatives, and who may Resist them?

Ans. To prevent the Dissolving of the Government, it is Necessary, they should take the Sword into their Hands ; but if they will not declare a New King, according to Custom, I cannot see why they may not be Compell'd to it, since they have their Power only in Trust, not in their own Right: Thus in *Poland*, upon the Death of the King, if the Representatives of the People, who on that occasion are Entrusted with the whole Power, should pretend to be Lords *Paramount*, and would not proceed to a New Election ; I know not why the People should not demand their Right, which is to be Govern'd by a King.

Now this would have been our Case, if our Representatives, in the late times, had patcht up a Government without a King : Tho' this had been done by our Representatives, it could not properly be call'd the Act of the People, because we never gave them such Authority. This you cannot but grant, unless you will presume, that we
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Commission them to destroy the Monarchy; which as you find can hardly be suppos'd in an Elective Kingdom, upon the Death of their King; but it is perfect Nonsense to suppose it, in an Hereditary Government, whilst the Royal Family is yet in being. It may be suppos'd, that we Commission them to Elect a King, in Case the Royal Line should Fail, or finding two pretenders, to declare who has the best Title, or to appoint a Protector, in Case of Infancy, or Lunacy; Or to receive a Conqueror into the Throne, in case our Natural Prince, be Fled out of His Kingdom, and incapacitated to protect us, and they in no condition to make opposition; or to invest the next Heir, with Royal Authority in case of Desertion, especially if the deserting Prince, dare not, or cannot come to protect us; their enquiry not being, how he came into that condition, but whether he be in a Capacity to Protect us; and if he be not, they are then free to invest the next Heir with the Royal Authority: In all these Cases our Representatives may well presume on our Consent, tho' they Act without the King, because it is almost Absolutely necessary, these things should be done; and intolerable inconveniencies would ensue, perhaps to the utter Ruin of the Common-wealth, if they were not done: But to presume, that we give them Authority to take, and keep the whole Legislative Power in their own Hands, or to destroy the Monarchy, this is a strain beyond my comprehension, at least it is not Properly the Act of the People; and therefore they, whom they represent, must Ratify it in their own Persons, ere they can pretend a Through Settlement.

But then, if the People all the while shew great uneasiness under this Usurpation, if their crys be loud and clamorous, and many of them absolutely refuse to own the Authority; This has not the Face of a Settlement: Here

is nothing, that looks like a general consent; and that tho' we should suppose our Representatives to have own'd the Usurpt Authority; (for as by the Fundamental Laws of the Nation, we only Authorise them to act with the King;) so whatever they shall do without a King, is not valid, unless it be in the Cases before mention'd, which both Necessity and Reason will allow; whereas, neither Necessity nor Reason can be pleaded in the former Instance.

But I do not pretend, that what I have said on this Point, will amount to any thing like a Demonstration; a short-sighted Man may chance to find greater Flaws in it, than I am now aware of: Perhaps, my Zeal for Monarchy, has too much heated my Imagination; and I can only say, in my Excuse, That I have no pleasing Idea's of a Common-Wealth; and therefore, would willingly shut the door against it.

But if this will not stand the Test of a Judicious Reader, let this Long *Parenthesis* pass for nothing, we need no such precarious Principles; our Case is good without it, as you may find in the other parts of this Discourse.

And now I have nothing more to trouble my Reader with, but only to Answer Two or Three Objections which could not so conveniently be consider'd in the Body of this Discourse; and then draw some Conclusions from it.

Obj. First then it may be Objected, That according to these Principles, we are now Settled upon a Legal and Rightful Government.

Ans. First, If this be well prov'd, so much the better; it is then no Argument against me.

Secondly, I can see no good Reason, Why we should not own it to be a Legal and Rightful Government, unless it be, that our Heads are perplex'd with the nice Distinction

inction of a King *de Jure*, and a King *de Facto*: By a King, *de Jure*, we commonly mean a Prince who has the Crown by Right of Inheritance; and it is thought, that any other Person can be, at best, but a King, *de Facto*: Upon this, many suppose, that His Present Majesty cannot be King, *de Jure*, at least, during the Life of King James; but yet may be obey'd, because the Law, made in the 11th. of Henry 7th. determines our Obedience to a King, *de Facto*. It is True, that Law indemnifies those who shall obey the King in the time being, as the Words of the Act run; that is, the King in possession, Whether he Claims the Crown by Right of Inheritance, or otherwise. But if Interpreters shall say, That he only is a King, *de Jure*, who Claims his Crown by Right of Inheritance, it is a visible Mistake; for all Mankind, as far as I know, are agreed, That a Conquerour, who makes a just War, upon the Submission of the Conquered Nation, becomes a King, *de Jure*: and if in this present Case, His Majesty is justly invested with the Royal Authority, he is so likewise, as I think I have prov'd: So that, you find this common Interpretation is imperfect; a King, *de Jure*, should not so peremptorily be restrained to a King by Inheritance; but we run away with the Mistake; and without Considering, seem to yield the Point, as if His Present Majesty were only a King, *de Facto*.

I cannot say, Whether such as are skill'd in the Laws, will allow of this Interpretation; but with submission, I presume it is agreeable to reason, and does not defeat the Design of the Law. To say, That a King, without a Title, is a King, *de Jure*, is a Contradiction; but to suppose, that he that originally wants a Title, does by an Act of Recognition, receive a Title; this we may suppose, without straining or forcing our Reason: I am sure it does not.

not found so harsh, as to require Obedience to an Illegal Government, for Conscience sake. On other Occasions we make no Scruple to say, That a Sentence in a Court of Judicature, gives a Man a Title to an Estate; and upon this, the Tenants and Vassals, though it were procur'd corruptly, are to look upon him, and pay him Homage, as the Legal Possessor; and the like may be said in the Case before us, if our Representatives, without any good Reason, had plac'd His Majesty on the Throne, he had then been a King, *de Facto*, a Legal Possessor in the Eye of the Law; but if they acted according to Reason and Conscience, as I presume they did, he is then King, *de Jure*.

And if this were allow'd for Sence, we should not be driven to say, That God Almighty requires our Obedience to Illegal Governments; which I cannot yet assent to, notwithstanding all the Authorities, which are brought to support this Doctrine. I acknowledge once for all, That *God removeth Kings, and setteth up Kings*, as He pleases; He is not bound by Humane Laws, as we are; and when He has set up a New King, He must be obey'd; but an Usurp't Sovereignty must not be ascrib'd to God, or it does not appear to be His Act, until the New King gets quiet possession, together with an Act of Recognition; it is then soon enough to ascribe the Revolution to the Hand of God: When God means to carry things to this Length, He does by one means or other, dispose the Peoples Hearts, to receive such a Prince, and then he hath God's Authority.

Obj. *But it may be urg'd, That this Explication defeats the Design of the Law; which, as they say, was Enacted, to indemnify such as assisted Henry the Seventh, in case of a New Revolution; because, originally he had no good Title to the Crown; for if quiet Possession, and the Recognition of*

our Representatives, gives a Title, it may be said, there was no need of this Law.

Ans. First, *Abundans Cautela non nocet*; They could never make themselves too secure; and therefore, lest their Enemies, as it was in the Fable, should say, that their Ears were Horns, they did wisely provide against it, fencing themselves with an Act of Parliament, tho' really there was little Occasion for it; but lest their Enemies might afterwards pretend, That *Henry the 7th.* was not King, *de Jure*, they declar'd it Lawful to Obey a King, *de Facto*; though at the same time, there was no great Reason to Enact it barely on his Account.

And I presume, the rather, to make this Construction of it, because it is scarce credible, That *Henry the 7th.* (who had so many Claims to the Crown, *viz.* Blood, Conquest, Marriage, and all strengthen'd by an Act of Recognition) should suffer his People to say, that he had no Rightful Title to the Crown; whereas it is said, he was the most suspicious Prince then living; and therefore, it is very improbable, he should own such a Blot in his Title, which must be, if he made himself thus a King, *de Facto*, only.

Secondly, If this be an empty, groundless Surmise, His Majesty is yet a Legal King, because this Law supposes we may have such a King: And I may say, King *James* was no more; for though he had his Authority from God, the Law only was our Evidence of his Authority; just as we say, Marriage is the Ordinance of God; yet if a Man be not Married by the Form, which the Law prescribes, we presume to call it no Marriage. But after all, we are very unfortunate, if this Law, which was made to Govern and Direct us in our Obedience, should prove the main Foundation of all our Scruples; for perhaps, if our Fore-Fathers had not troubled us with

with this nice distinction of a King *de jure*, and a King, *de facto*, we should not have coin'd it on this occasion, but have generally submitted to their Majesties, as Lawful and Rightful King and Queen.

Obj. But Secondly, against this Hypothesis may be Urg'd our Vulgar Maxim, That Conquest gives Right; for if there be any Truth in this saying, there is no need of our Consent.

Ans. This I have in part answer'd before, and if the Maxim be ill grounded, it must shift for it self.

Secondly, I allow there is some Truth in it, Conquest may give a Prince Right to the Conquered Dominions. When we are Conquer'd, we lose our Property. But I cannot conceive, that he should have Right to our Obedience, and our Persons, as so many Cattle, and Stock upon the Ground; and in short, if you would make this the sense of it, the condition of a Conquer'd People, would be most intolerable, since we thus bind their consciences without Reserving them any Property; it being agreed by all, that a Conqueror has the whole Property in the Conquer'd Country; and we only plead to have their consciences free, until they can make Terms for themselves, which I think ought not to be included in this Maxim; or if it be, I had rather quit the Maxim, than lose my Liberty.

I Should now have done, only it may be convenient to draw some Conclusions from this Hypothesis, which may not be disagreeable to men of our Principles.

As first, If this be true, then it was not his Majesties Sword, nor his Armies, that gave him his Authority over us, but our Representatives; in the Condition we were in, did justly Transfer our Allegiance to him, as I have already Demonstrated. This therefore must be
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great satisfaction to us all, that notwithstanding this great Revolution, things have run in the Right Channel, and that he did not get into the Throne, by Illegal means, which being suppos'd, we may the better hope for prosperity under his Government.

Secondly, If these Principles be True, then his Majesty was not Elected as some affirm; for in as much, as the Late King was not able, or willing to Protect us, the Crown Naturally Devolv'd on his Majesty, (for if Her Majesty, and Her Royal Highness the Princess of *Denmark* be pleas'd to postpone their Right, what is that to us) and if his Majesty upon the Late Kings Leaving the Kingdom, did not presently take it, but left the doubt to be decided by our Representatives, it is no more than might be done upon a Descent, if there were two pretenders to the Royal Dignity; which being thus determin'd, I presume would not be Deem'd an Election; their Act does not so much give the Crown, as determine, to whom it did belong. And I think this is much the same Case to that which is now before us; *viz.* The Consent of the Estates, to place his Majesty on the Throne, does no more Derogate from his Right, than the Act of Recognition, pass'd by King *James* the First, did suppose a Flaw in his Title.

Thirdly, Upon these Principles we may also Silence those Rash Men, who for Reasons best known to themselves, frequently tell us, that the Government was dissolv'd, when the Late King left us.

But surely these Men cannot see an inch before them, and I am almost asham'd to give them a serious answer. Let them tell me, if the Government did thereby Crumble into pieces, by what Right did our then Representatives, Erect another on the Ruins of it? If the Fountain of Honour fail'd, what Right had the Nobility to their Peerage, and why might not the meanest Peasant send

his Representative, as well as any Landed Man, or free Burgher? These questions are too difficult to be resolv'd, unless it be upon the supposition, that the Old Government was then in being. They were at a loss indeed, to know in whom the Government should be vested, and they came together to determine this great question, which they soon Wisely Resolv'd; And unless we quietly submit to what is done, by our Representatives in these Exigencies, we might as well say the Government was Dissolv'd, when the King Left us, if the remaining Powers might not Determine, where we should Pay our Obedience: For I suppose those Confusions, what by an unruly Rabble, and a Disbanded Army, did sufficiently shew the necessity of fixing somewhere; and I humbly suppose it is as evident to all Mankind, that the Late King would not, or could not come to Act his part in the Government.

But lastly, upon these Principles (if it were necessary to refute such vile Reproaches) we might secure our last Unhappy Prince, from being accounted the Grand Rebel, as he is styl'd in a late Scurrilous Pamphlet: For if it is only our own Consent, that makes us Subjects, we may at least be so favourable to the Ruins of Majesty, as to excuse him from being a Subject or a Rebel; since he cannot be the Head, he has not consented to be any other Member of the Government, not being here in Person, or any Deputed from him; though this cannot be said of any other Person, since they are Represented in our Estates, whether they will or not: Nor upon any other Hypothesis can I Conceive it Rational, to exclude the Late King himself from being a Member of this Present Government; but this way he is set at Liberty, and consequently, as free to Invade Their Majesties Dominions, as any other Prince. If he molest us with an Unjust War, he must expect, at the Great
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and Dreadful Day, to give Account for all the Desolations and Blood-shed, that shall ensue upon it : If he is injur'd, he has a good God to Fight his Battles, and we a Merciful Creator, that I hope will Compassionate our Sins of Ignorance : I hope I may well call them so ; for my part, my Conscience bears me Witness, That I think it my Duty to submit to Their Present Majesties Government ; and that I see nothing, that moves a Scruple in my Heart, but the contrary Example of some Worthy Men, who, I am perswaded, Act with great Sincerity : But since Example is no Argument, and if it were, is much stronger on our part ; I dare not but follow the Dictates of my own Conscience.

FINIS,

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